

REMARKS

The courteous interview granted to Applicants' undersigned attorney and first named inventor, James T. Olsta, on June 13, 2006 is hereby acknowledge with appreciation. At the interview, the invention, the outstanding Office Action, and the prior art of record were thoroughly discussed.

As discussed at the interview of June 13, 2006, Applicants have amended their claims to specify that the geocomposite article is water permeable by stating that "the powdered or granular reactive material does not prevent the flow of water through the geocomposite article." As discussed at the interview, of June 13, 2006, and as set forth in PTOL-413 (Interview Summary), the primary White references, particularly White 5,237,945, is directed to a **water barrier** and always contains sufficient water swellable clay (even when an additional material, such as a contaminant-treating material is included) such that the produced article is always a water barrier such that water "is impeded from flow by the article" (see Col. 3, lines 43-44). If another material such as a contaminant-treating material is included in the article, it is always in addition to sufficient water-absorbent material such that the final product is a water barrier. For example, at Col. 4, line 40-45, it is stated "the water absorbent material can be withheld from a portion of the mat, if desired, to provide for gas venting or to provide a space or area for the clay to expand or to provide areas for addition of other powdered or granular materials, such as an organophilic clay, a zeolite or other contaminant-treating material ...".

Further, as set forth in Col. 6, line 42, the article produced is a "water proofing membrane". In addition, as set forth at Col. 3, lines 46-51, "the application of layer(s) of water-impermeable or water-permeable sealing material(s) over one or both major surfaces of the article as a **safety or secondary layer of water-impermeability**" indicates that there is always a primary material (water-swellable clay) to provide basic water-impermeability.

At the interview of June 13, 2006, the question was asked why it would not be obvious to remove the water swellable clay from the White '945 article to arrive at Applicants' claimed invention. As set forth throughout the White '945 patent, the primary purpose of the '945 article is to provide a **water barrier** or **water proofing membrane** to prevent the passage of water therethrough. To remove the water swellable clay from the '945 article would destroy the purpose of the article produced in accordance with that patent.

Further, there is no motivation or suggestion in the prior art that the '945 article would have any usefulness if its primary purpose were destroyed by removal of the material which provides the water proofing characteristics.

As set forth in M.P.E.P. 2143.01:

**"THE PROPOSED MODIFICATION CANNOT RENDER
THE PRIOR ART UNSATISFACTORY FOR ITS
INTENDED PURPOSE**

If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)."

**"THE PROPOSED MODIFICATION CANNOT CHANGE
THE PRINCIPLE OF OPERATION OF A REFERENCE**

If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F.2d 810, 123 USPQ 349 (CCPA 1959)."

Clearly, removal of the water swellable clay from the White reference in order to make the White product water-permeable, would make the White product unsatisfactory for its intended purpose as a water barrier and would change the principle of operation of the '945 product.

The Zhou et al. U.S. Patent No. 6,610,781; Clarey et al. U.S. Patent No. 5,900,085; and Nunotani et al. U.S. Patent No. 5,346,555 neither disclose nor suggest Applicants' claimed method of manufacture and do not provide any motivation for removal of the sodium bentonite clay from the White '945 patent or the White 5,346,565 patent.

It is submitted therefore, that all claims clearly distinguish over the prior art of record. Early and favorable consideration is respectfully requested.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 13-2855, under Order No. 28570/10087 from which the undersigned is authorized to draw.

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Respectfully submitted,

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